IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

O.P.No.29425 of 1999(S)

(R.A.NO.334 (COCH)/1998 ARISING OUT OF I.T.ANO.261(COCH)/1984
OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH, COCHIN)

.....

PETITIONER:-

THE COMMISSIONER OF INCOME-TAX, COCHIN.

BY STANDING COUNSEL FOR GOVERNMENT OF INDIA (TAXES)
SRI.P.K.RAVINDRANATHA MENON (SR.)
SRI.GEORGE K. GEORGE.

RESPONDENTS:-

ST.THOMAS CATHEDRAL CHURCH,
IRINJALAKUDA, TRICHUR DISTRICT.

BY ADV. SRI.P.BALACHANDRAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu, C.J. & K.T.Sankaran, J.

O.P.No.29425 of 1999-S

Dated, this the 30th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

The Revenue has filed this petition under Section 256(2) of the Income Tax Act, 1961 ('Act' for short), inter alia, requesting us to direct the Income Tax Appellate Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.261/Coch)/1984 dated 7th September, 1998 for the assessment year 1990-91. The questions of law raised by the Revenue are as under:

> "1. Whether, on the facts and in the circumstances of the case and in view of sub-section (4A) of Section 11, the assessee is entitled to exemption u/s.11 of the Income-tax Act?
>
> 2. Whether, on the facts and in the circumstances of the case, the assessee is right in law and fact in holding that 'the assessee is a religious and charitable institution and carried on kuri business for utilising the income therefrom also for the charitable purpose such as medical relief, education, etc.?
>
> 3. Whether, on the facts and in the circumstances of the case, the Tribunal is right in holding that the interest claimed cannot be taxed in the hands of the assessee trust as it is exempt from taxation?"

(2) The Tribunal has rejected the appeal filed by the Revenue. The Revenue had filed an application under Section 256(1) of the Act requesting the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.261/Coch)/1984 for the assessment year 1990-91. The

Tribunal has rejected the application.

(3) We have carefully perused the order passed by the Tribunal and also the questions of law raised by the Revenue for consideration and decision by this Court. In our opinion, the questions of law raised by the Revenue require consideration by this Court. Therefore, a direction requires to be issued to the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.261/Coch)/1984 dated 7th September, 1998 for the assessment year 1990-91.

(4) Accordingly, the following:

Order

i) The petition is allowed.

ii) A direction is issued to the Tribunal to state the case and refer the questions of law that would arise in .T.A.No.261/Coch)/1984 dated 7th September, 1998 for the assessment year 1990-91 for consideration and decision by this Court, as expeditiously as possible.

Ordered accordingly.

(H.L.Dattu)
Chief Justice

(K.T.Sankaran)
Judge

vku/-